CONSTITUTION OF THE
NATIVE TRIBE OF KANATAK, ALASKA

PREAMBLE

We, a group of Alaska Native people of Kanatak, citizens of the United States, having common bonds of association, and descendants of the original inhabitants of this land, constitute the Native Tribe of Kanatak, and by this declaration, and in order to implement our inherent right to self-government and self-determination and to promote our political, social, cultural, and economic progress do hereby ordain and establish this Constitution under authority of the Indian Reorganization Act (IRA) of June 18, 1934 (49 Stat. 984), as amended. When adopted by the membership and approved the Secretary of the Interior, this Constitution shall supersede the previously adopted and approved IRA Constitution of March 1, 1941.

ARTICLE I. NAME

This is the Constitution of the People and Government of the Native Tribe of Kanatak.

ARTICLE II. TERRITORY

The territory of the Native Tribe of Kanatak shall extend to and include all lands customarily and traditionally used or owned by the original inhabitants of Kanatak, Alaska since time immemorial, including within such 'traditional lands' all lands withdrawn for selection by Bristol Bay Native Corporation (BBNC) pursuant to the terms of the Alaska Native Claims Settlement Act of December 18, 1971 (P.L. 92-203) as heretofore and hereafter amended, as well as all lands acquired by BBNCV, plus any lands hereafter acquired by the Native Tribe of Kanatak, all fee lands and allotments within the traditional lands of Kanatak, not withstanding the issuance of any patent or unrestricted fee title to any such lands.

ARTICLE III. JURISDICTION

The jurisdiction of the Native Tribe of Kanatak shall extend to all lands, waters, and people within its territory to the fullest extent possible so long as such jurisdiction does not violate federal or Kanatak tribal law. The tribe's jurisdiction shall also extend to its members outside its territory to the fullest extent possible as related to membership and other tribal internal and social relations.

ARTICLE IV. MEMBERSHIP

Section 1. Base membership in the Tribe of Kanatak shall consist of the following:

a) All persons of Alaska Native heritage descended by blood or adoption from the residents of the Native Village of Kanatak whose names appear on the base membership roll of the Native Tribe of Kanatak certified by the tribal Council.

Section 2. New members.

a) Children. All children born to members and all children biologically of Alaska Native descent who are adopted by members shall be admitted to membership upon application.
b) Adopted members. Any person of Native American descent, not otherwise eligible for membership but with familial or other significant ties to the Tribe, may be admitted to non-voting membership at the discretion of the Tribal Council.

Section 3. Voting Membership.

All base members and children of such members, whether by blood or adoption, shall be enrolled as voting members of the Native Village of Kanatak. Adopted members who do not qualify for voting membership shall be non-voting members, entitled to the benefits of tribal membership, except as may be limited by the Council.

Section 4. Dual Membership.

Notwithstanding any other provision of this Article, dual membership will be permitted provided that the other tribe in which the person is a member allows membership for Kanatak Tribal Members.

Section 5. Loss of Membership.

Membership may be voluntarily relinquished by written notice from a member to the Council. The Council may revoke membership involuntarily for just cause upon due process of tribal law.

Section 6. Honorary Members.

Persons not eligible for membership may be designated honorary members by the Tribal Council. Honorary members may not hold elective office; do not have the right to vote, and do not become eligible for tribal benefits by reason of their honorary membership.

Section 7. Regulation of Membership.

The Kanatak Tribal Council shall have the power to enact ordinances and resolutions, not inconsistent with this Constitution, prescribing rules and regulations governing membership, including application and appeal procedures, loss of membership, adoption of new members, establishing procedures for application and appeal procedures.

ARTICLE V. GOVERNING BODY

Section 1. Name.

The governing body of the Native Tribe of Kanatak shall be the Kanatak Tribal Council, hereinafter referred to as the Council.

Section 2. Composition.

The Council shall consist of five members elected to classified, three-year terms by a majority vote of the eligible voters at the annual membership meeting or election. Council members shall take office immediately upon election.

Section 3. Officers.

The Council shall include a President, Vice-President, and Secretary/Treasurer. Officers shall be selected by the Council from its members immediately following the annual meeting. The Council may appoint such other officers as may be necessary from time to time from within or outside the Council.

Section 4. Term of Office.

The terms of the officers (President, Vice-President and Secretary/Treasurer) shall be one year. All officers serve at the pleasure of the Council. Except as may be necessary to establish and maintain the staggered terms of the Council, all Council members shall serve three year terms. In order to establish the initial classification of Council seats and stagger the terms of the Council members, the first election under this Constitution shall be conducted as described in this section. The two candidates receiving the most votes shall be elected to three-year terms. The two candidates receiving the next highest number of votes shall be elected to two-year terms. The remaining candidates shall be elected to a one-year term. In case of a tie vote for any candidate, determinations shall be made by drawing of lots. If it should ever prove necessary to reclassify the Council, the foregoing procedure shall be adapted as nearly as practicable to the circumstances.

Section 5. Assumption of Office.

All Council members shall take office immediately upon certification of the election by taking the following oath of office:

> I, _____, solemnly swear to affirm that to the best of my ability that I will honestly and faithfully perform the duties of my office and uphold the Constitution, laws and customs of the Native Tribe of Kanatak.

Section 6. Vacancies.

Any office that is vacated, whether by removal, recall or forfeiture shall be filled by appointment by the remaining Council members at their next meeting. The replacement shall serve the remainder of the term of the person replaced.

Section 7. Conflict of Interest.

No member of the Council shall participate in any vote in any matter pertaining specifically to the member or to the member's immediate family or on any matter in which the Council member or their immediate family has a material financial interest. A Council member may be hired by the Council to work for the tribal government but while so employed he or shall abstain from voting on matters pertaining to his or her employment. 'Immediate family' means, whether by blood or adoption, a father, mother, brother, sister, wife, husband, son or daughter or any person living in the Council member's household. Such Council members may be counted for quorum purposes and may participate in Council discussions regarding the matter.

ARTICLE VI. ELECTIONS AND MEETINGS

Section 1. Voter Qualifications.

Any duly enrolled voting member of the Native Tribe of Kanatak who has reached the age of 18 or older shall be eligible to vote in all tribal elections and meetings.

Section 2. Qualification of Candidates.

Only voting members shall be eligible to become candidates for election to the Council and to serve in that capacity. No person shall be a candidate for more than one (1) position in any election. Any person convicted of a felony in Federal or state court or who shall be removed or recalled from office under Article VII, shall be ineligible to serve as a member of the Council for a period of five (5) years after their conviction, removal or recall.

Section 3. Regular or Special Meetings or Elections.

The regular meeting or election of the Native Tribe of Kanatak shall be held at least once annually. The date, time and place of such meetings or elections shall be determined by the Council. Special meetings or elections may be called by the President and shall be called upon receipt of a petition signed by at least thirty percent (30%) of the eligible voting members of the Native Tribe of Kanatak.

Section 4. First Election.

As soon as practicable after the adoption of this Constitution, the existing Kanatak Tribal Council shall call an election or meeting to elect the first members to the Council authorized under this Constitution.

Section 5. Nominations.

The time, place, and manner of nominations shall be specified in the election ordinance adopted pursuant to Section 6 of this Article. If not so specified, nominations may be made in a manner specified by resolution of the Council.

Section 6. Election Ordinance.

An election ordinance, providing for elections consistent with this Constitution, shall be adopted by the Council as soon as practicable following the effective date of this Constitution which shall set forth the procedures to be followed in conducting each of the various types of elections called for in this Constitution. The ordinance shall include provisions for conducting all Tribal elections by secret and absentee balloting, nomination of candidates, maintenance of a current list of eligible voters, certification of election, assumption of office and the settling of disputes and other matters related to the conduct of elections. The ordinance shall spell out the procedures and format to be used whenever it is necessary to submit petitions for any purpose to the Council and set forth a procedure for determining the validity of such petitions.

Section 7. Election Committee.

Prior to any Tribal election, the Council shall appoint an election committee consisting of three (3) members to supervise administer and conduct the election. The election committee shall serve from the time of their appointment, until certification of the election for which the committee was appointed. The election committee shall certify the election of tribal officials immediately after the election. No candidate for a position on the Council shall simultaneously serve on the election committee.

Section 8. Quorum of Voting Members.

A quorum of the voting members shall consist of thirty percent (30%) of eligible voters voting either in person or by mailed ballot. Except where a greater number is required by this Constitution, any action requiring a vote of the eligible voting members requires the affirmative vote of at least a majority of voters in attendance at a meeting or voting in an election in which a quorum participates to be effective.

ARTICLE VII. REMOVAL, RECALL AND FORFEITURE

Section 1. Removal.

Any Council member or other Tribal official found guilty by the Council of behavior involving gross misconduct in office or neglect of duty may be removed from office by a vote of at least three members of the Council. Voting must be by secret ballot and the accused, if a Council member, is not entitled to vote. Before any vote for removal is taken, the accused must be given a reasonable opportunity to answer the charges against them.

Section 2. Recall.

Eligible voters shall have the power to remove any member of the Council by recall. The process shall be initiated by giving a petition asking for such removal to the Council. The petition must be signed by at least thirty percent (30%) of the eligible voters and must set forth the reasons for the petition. The Council must hold an election to consider the recall within thirty (30) days of receipt of a valid recall petition. The Council shall call and conduct an election to consider the recall of the members named in the petition. Once an individual has been subjected to recall proceedings, that person shall not again be subject to such action during the balance of their current term in office.

Section 3. Forfeiture.

If any member of the Council shall be found guilty of a crime of moral turpitude in any Court, shall die, resign, or is absent from three (3) successive meetings of the Council without being excused by the Council, that member shall automatically forfeit their office.

ARTICLE VIII. POWERS

Section 1. Assertion of Power.

The Native Tribe of Kanatak shall have all rights and powers of a sovereign, self-governing tribe except to the extent limited by this Constitution or federal law.

Section 2. Powers of Council.

Except as specifically limited by this Constitution, the powers of the Tribe shall be exercised by the Council and shall include all the inherent powers of a federally recognized tribal government, including but not limited to those specified in this Article, which do not violate federal law. The Council may also authorize an officer to act in specific circumstances.

Section 3. Other Council Powers.

In addition to all powers vested in the Tribe or the Council by existing law, and this Constitution, the Tribe, acting through the Council shall have the following powers:

a) To consult, negotiate, contract, or conclude agreements with Federal, State and local governments on activities that may affect the Tribe.
b) To employ legal counsel, the choice of counsel, and fixing of fees to be subject to the approval of the Secretary of the Interior or his authorized representative so long as such approval is required by federal law.
c) To receive advice from and make recommendations to the Secretary of the Interior with regard to all appropriation estimates for all projects which are for the benefit of members of the Tribe prior to the submission of such estimates to the Office of Management and Budget and to Congress.
d) To acquire property and to accept gifts.
e) To prevent the sale, disposition, lease or encumbrance of Tribal lands, interests in lands, or other tribal assets without eh consent of the Tribe as provided in Sections 4 and 5 of this Article.
f) To Protect members' rights in personal property.

g) To join and/or charter housing authorities.
h) To charter enterprises, corporations, and associations.
i) To prescribe rules and regulations governing future membership, loss of membership, and adoption of members.
j) To promote the peace, safety, health, and general welfare of the members of the Tribe.
k) To administer the Tribe's assets and manage all economic affairs of the Tribe.
l) To enact ordinances and regulations consistent with this Constitution for the conduct and administration of all tribal elections, the appointment of an election board and the regulation of its duties and members.
m) To provide for the maintenance of law and order and the administration of justice, including the establishment of appropriate Tribal courts or other judicial or administrative bodies.
n) To levy and collect taxes, fees, and assessments for tribal purposes.
o) To encourage and foster the arts, crafts, traditions, customs, language and culture of the Tribe.
p) To protect and preserve the wildlife and natural resources within any area under the jurisdiction of the Tribe or upon which its members rely for subsistence.
q) To regulate child custody and adoptions under the Indian Child Welfare Act, or other applicable law or custom and to regulate other domestic relations among tribal members or, with their consent, among non-members.
r) To authorize or direct subordinate boards, committees or officials to administer the affairs of the Tribe and to carry out the directives of the Council.
s) To zone, exercise the power of eminent domain and otherwise regulate all land use within any areas under the jurisdiction of the Tribe.
t) To regulate inheritance among Tribal members whether by intestacy or otherwise.
u) To administer any funds within the control of the Tribe.
v) To engage in economic development enterprises for the benefit of the Tribe or its members.
w) To exercise any and all powers heretofore or hereafter delegated by the State of Federal government.
x) To enact ordinances, procedures and regulations necessary to give effect to any provision of this constitution and to exercise any power not prohibited by Federal law.

Section 4. Power Reserved to Membership.

Except by ordinance or resolution of the Tribal Council approved by majority vote of all eligible voters, no tribal taxes may be levied nor may any tribal lands or interests in lands be sold, leased, encumbered, or otherwise disposed.

Section 5. Waivers.

Nothing in this Constitution nor any action taken under it shall be deemed or construed to be a waiver of the sovereign immunity or jurisdiction or to constitute the consent of the Native Tribe of Kanatak for the disposition of its property or other assets, which may only be waived or consented to by express resolution of the Tribal Council, adopted by a vote of at least four (4) Council members at a cully called Council meeting, and only to the extent specified in such resolution and permitted by this Constitution and federal law. Waivers of sovereign immunity or jurisdiction or consent shall not be general but must be specific and limited as to duration, grantee, transaction, property or funds, if any, of the Tribe subject to the waiver or consent and to the court having jurisdiction and applicable law. Waiver of the sovereign immunity or consent of the Tribe shall not be deemed a general consent to the levy of any judgment, lien or attachment upon the property of the Tribe other than property specifically pledged, assigned or otherwise explicitly subject to levy in the waiver or consent resolution.

Section 6. Retained Powers.

The retained powers of the Tribe not expressed in this Constitution shall not be lost by omission, but may be exercised by majority vote of the eligible voting members participating in the duly conducted meeting or election or delegated by the members acting by such majority vote to the Council.

ARTICLE IX. POPULAR PARTICIPATION IN GOVERNMENT

Section 1. Initiative.

The eligible Tribal voters of the Tribe shall have the right to propose legislation or other community action. Upon receipt of a petition signed by at least thirty percent (30%) of the eligible Tribal voters, the Council shall call an election to be conducted within thirty (30) days of receipt of the petition. The election shall be by secret ballot.

Section 2. Referendum.

The Tribal Council may call an election for the purpose of deciding any issue or question that is within the authority of the Council.

Section 3. Voter Decision Binding.

The decision of the majority of voters in both initiative and referendum elections shall be binding on the Council and the Tribe and shall remain in full force until amended or rescinded by the voters or expires by its own terms.

ARTICLE X. RIGHTS OF MEMBERS

Section 1. Civil Rights.

Consistent with the cust6oms, laws and traditions of the Native Tribe of Kanatak, the Tribe in exercising its powers of self-government shall not deny to any person within its jurisdiction, freedom of speech, press or religion, or the right to assemble peacefully, nor shall the Tribe deny to any person the equal protection of Tribal laws or deprive any person of liberty, membership or property without due process of Tribal law.

Section 2. Freedom of Information.

Members of the Tribe shall have the right to review all records of the Tribal government, including financial records, at any reasonable time in accordance with procedures established by the Council, subject to such rights to privacy as may apply under federal or Tribal law.

ARTICLE XI. DUTIES OF OFFICERS

Section 1. President.

The President shall preside at all meetings of the Tribe and of the Council and shall execute on behalf of the Tribe all contracts, leases, or other formal documents approved by the Council. The President shall vote in matters before the Council. The President shall have the general supervision of all other officers, employees and committees of the Tribe and see that their duties are properly performed. When the Council is not in session, the President shall be the official representative of the Tribe.

Section 2. Vice President.

The Vice President shall assist the President when called upon to do so. In the absence of the President, the Vice President shall preside and when so presiding shall have all the rights, duties, privileges and responsibilities of the President.

Section 3. Secretary/Treasurer.

The Secretary/Treasurer shall keep the minutes of all meetings and shall attest to the enactment of all resolutions and ordinances and maintain in permanent form all minutes, resolutions, ordinances and rules of the Tribe, which shall be public information. The Secretary/Treasurer shall issue notices of all meetings and elections and conduct all general correspondence as directed by the Council shall carry out the financial directives of the Council, receive and safeguard all monies of the Council, keep an accurate account of receipts and disbursements and report to the Council all receipts and expenditures and the amount and nature of all Council funds. Funds shall be deposited in a bank approved the Council where depositors' funds are insured by the Federal Deposit Insurance Corporation (FDIC). All disbursements shall be made by check in accordance with resolutions of the Council. Upon termination of office, the Secretary/Treasurer shall surrender all papers, reports, accounts, correspondence and documents to the Council.

ARTICLE XII. COUNCIL MEETINGS

Section 1. Regular and Special Meetings.

Regular meetings of the Council shall be held at least quarterly, the time, place and date to be designated by the Council. Special meetings of the Council may be called by the President and shall be called by the President upon request of at least two (2) members of the Council and when so called, the Council shall have power to transact business as in regular meetings, provided that a quorum is present.

Section 2. Quorum and Voting.

A quorum of the Council shall consist of three (3) members of the Council. No business shall be transacted unless at a meeting where a quorum is present, except in the event of appointment to a vacated council seat. Any other act of the Council requires the affirmative vote of at least three (3) Council members at a meeting.

Section 3. Open Meetings.

All meetings of the Council shall be open to any Tribal member; provided that the Council may recess at its discretion to discuss any matter in a closed session, if the reason for going into closed session is stated in the motion calling for such session and no final or official action is taken in the closed session.

Section 4. Permanent Ordinances.

All final decisions of the Council on matters of general or permanent interest to members of the Tribe shall be embodied in ordinances. The ordinances shall be collected and made available to tribal members and others affected upon reasonable request.

Section 5. Temporary Resolutions.

All final decisions of the Council on matters of temporary interest shall be embodied in resolutions. Resolutions shall be collected and made available to tribal members and other affected persons upon request.

Section 6. Parliamentary Procedures.

All meetings shall be conducted in accordance with rules adopted by the Council.

ARTICLE XIII. TRIBAL COURTS

Section 1. Judicial Power.

The judicial power of the Native Tribe of Kanatak is vested in the Tribal Council. The Council may delegate its judicial power in particular cases and may by ordinance establish a permanent tribal court or courts, of limited or general jurisdiction, subject to the following requirements.

Section 2. General Requirements.

The Tribal courts established by ordinance shall meet the following general requirements.

a) The Tribal Court of general civil jurisdiction shall consist of three judges to be elected by the eligible voters for such terms as may be provided by ordinance.
b) The Court of Appeals, if any, shall have jurisdiction limited to appeals from the Trial Court raising questions of federal law or which arise under the Tribal constitution. Court of appeals judges shall be appointed for particular cases as follows: one (1) by the Tribal Court, one (1) by the Tribal Council, and a third appointed by the first two judges.

Section 3. Qualifications of Judges.

Trial Court Judges must be Tribal members, at least 25 years of age, and members of the Tribe for at least two years. They may not be members of the Tribal Council. Court of Appeals judges may be chosen on the basis of special expertise and need not be members of the Tribe. No Trial Court Judge may be appointed to the Court of Appeals for any case in which the Tribal Judge participated in the Trial Court decision.

Section 4. Procedures.

a) Trial Court. Immediately following election, the Trial Court Judges shall select from their number a Chief Judge, who shall be responsible for developing procedures for the Trial Court.

b) Appeals. Appeals from Trial Court decisions will be taken by delivering a notice of appeal and statement of reasons for appeal to the Chief Judge of the Trial Court and to the President of the Tribal Council who shall direct the Trial Court and Council to appoint Appellate Judges. Upon appointment of a full Court of Appeals, that court shall first determine if the appeal raises questions of Federal law or arises under the Tribal constitution. If not, it will dismiss the appeal. If so, it will develop procedures for consideration of the appeal.

Section 5. Judicial Supremacy.

Decisions of the Trial Court or, where applicable, the Appellate Court, are final subject only to such federal court jurisdiction as may exist.

ARTICLE XIV. SEVERABILITY

If any provision of this Constitution should be declared invalid by a Federal or Tribal Court of competent jurisdiction, the invalid provision shall be severed and the remaining provisions shall continue in effect.

ARTICLE XV. SAVINGS CLAUSE

Section 1. Existing Law Remains in Effect.

To the extent not inconsistent with this Constitution, all previous ordinances and resolutions adopted by the IRA Council of Kanatak and all customary Tribe law shall remain in effect following the adoption of this Constitution.

Section 2. Revisions.

In the event of future Constitutional revisions, all previous ordinances, resolutions and customary Tribe laws shall remain in effect to the extent that they are not inconsistent with the new Constitution or amendments.

ARTICLE XVI. AMENDMENTS

This Constitution may be amended by a majority vote of the qualified voters in an election called for that purpose by the Secretary of the Interior or his authorized representative; provided that at least thirty percent (30%) of those eligible to vote shall vote in such election. The election may take place at the annual membership meeting or election if consistent with Secretarial approval. No amendment shall become effective until approved by the Secretary of the Interior or his authorized representative or as otherwise authorized by law. The Secretary of the Interior shall call such an election on a proposed constitutional amendment approved by a vote of at least three Council members or, with the approval of the Council, upon a petition by at least thirty percent (30%) of the voting membership eighteen (18) years of age or older.

ARTICLE XVII. ADOPTION

This Constitution, and any amendment to it, when adopted by the majority vote of the voting members of the Native Tribe of Kanatak voting at an election called for that purpose by the Secretary of the Interior or his authorized representative in which at least thirty percent (30%) of the voting membership shall vote, shall be submitted to the Secretary of the Interior, or his authorized representative, for approval and shall be effective from the date of such approval or as otherwise authorized by law.

CERTIFICATION OF RESULTS OF ELECTION

Pursuant to a Secretarial election authorized by the Assistant Secretary – Indian Affairs, on September 20th, 2001, the Constitution of the Native Tribe of Kanatak was submitted to the qualified voters of the Kanatak Tribe and on December 7th, 2001 , was duly adopted by a vote of 26 FOR, and 0 AGAINST, and 0 cast ballots found spoiled or mutilated, in an election in which at least thirty percent (30%) of the 76 members entitled to vote, cast their ballot in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

DATED this 7th day of December , 2001 at Wasilla, Alaska. (An election must now be held by the BIA)

Chairman, Election Board

Kanatak Tribal Council - President

Kanatak Tribal Council - Vice President

Kanatak Tribal Council - Secretary Treasurer

Kanatak Tribal Council - Board Member

Kanatak Tribal Council - Board Member